

file name = modellaw

January 7, 1990

STAT

MODEL LEGISLATION

AN ACT TO PROTECT MINORS FROM
THE ILLEGAL SALE OF TOBACCO PRODUCTS

The intent of this legislation is to prevent children and young people from smoking and using other tobacco products in order to protect their future health and welfare.

Whereas:

1. Approximately 390,000 Americans die each year of diseases caused by cigarette smoking;
2. The U.S. Surgeon General has determined that smoking is the leading cause of preventable death in this country;
3. The nicotine in tobacco has been found to be a powerfully addictive drug, and it is therefor important to prevent young people from using the substance until they are mature and capable of making an informed and rational decision.
4. Most adults who smoke would like to quit, and a majority of current adult smokers have tried without success, and half of all teenagers who have been smoking for five years have made at least one serious but unsuccessful attempt to quit;

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5. Every day, approximately 5,000 minors under the age of 18 begin smoking;

6. Sixty percent of smokers begin by the age of 14, and 90 percent start before the age of 20;

7. Minors under the age of 18 spend more than one billion dollars on cigarettes and other tobacco products every year;

8. Tobacco is a gateway drug that can lead to the use of alcohol and illicit drugs;

9. There is a significant correlation between smoking and both poor academic and athletic performance among young people;

11. The economic costs of smoking imposed on our society exceed 65 billion dollars each year; and

12. Smoking by young women who are pregnant is a major cause of infant injury and death.

THEREFORE BE IT RESOLVED THAT:

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SECTION I: AGAINST THE LAW TO SELL TOBACCO TO MINORS

1. It shall be a violation of this law for any store or merchant to sell, either over-the-counter or through a vending machine, cigarettes or any other tobacco product to any person under the age of 18. It is the duty of the merchant or the merchant's employees to verify the age of prospective purchasers of cigarettes or other tobacco products to assure that they are 18 years old or older. A valid current driver's license shall be sufficient to determine proof. (Note: In states where there is not a photograph on the driver's license, picture identification should be required.)

2. It is the duty of each merchant who sells tobacco to assure that the employees of that store are educated about the law and the importance of obeying it.

3. Every store that sells cigarettes or other tobacco products to minors must post signs that are conspicuously visible to all customers at or near locations where tobacco products are displayed, and at each cash register, reading:

IT IS A VIOLATION OF THE LAW FOR CIGARETTES OR OTHER
TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE
OF 18.

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These signs must be made with red lettering at least one-half inch high on a white background. They must include a graphic drawing of a pack of cigarettes with a circle and cross over it. Signs are available at no cost through the Health Department.

SECTION II: LICENSE REQUIRED TO SELL TOBACCO PRODUCTS

1. Every merchant who sells cigarettes or other tobacco products shall be required to obtain a license. That license may be suspended or revoked for repeated violations of this law, based upon the following schedule:

First Violation: \$500 fine

Second Violation: \$1,000 fine and 30-90 day
suspension of license

Third Violation: \$1,000 fine and 6-18 month
suspension of license

Each sale of cigarettes or other tobacco products to a minor shall be considered a separate violation.

2. Any merchant applying for a license to sell cigarettes or other tobacco products shall pay a fee of (\$300). Once approved, the license shall be valid for a period of (three)

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years. Fee revenues shall be used to support the cost of administration, enforcement, and juvenile smoking prevention and cessation.

SECTION III: CERTAIN FORMS OF DISTRIBUTION PROHIBITED

1. It shall be a violation of this law to sell cigarettes in any form except original factory-wrapped packages. The sale of single cigarettes is specifically prohibited.

2. It shall be a violation of this law for any person or organization to give-away, hand-out, or otherwise distribute free samples of cigarettes or other tobacco products, or coupons that can be redeemed for free samples of cigarettes or other tobacco products, anywhere within the jurisdiction. Any person or organization violating this provision shall be subject to a fine not to exceed \$1,000 and/or imprisonment of up to 30 days. This provision shall not apply to coupons in magazines published outside of this jurisdiction and distributed within the jurisdiction.

3. It shall be a violation of this law for any merchant, with or without a license, to sell cigarettes or other tobacco products through a vending machine.

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3 (alt). It shall be a violation of this law for any merchant, with or without a license, to sell cigarettes or other tobacco products through a vending machine except where said vending machine is equipped with an electronic or manual device which renders the machine inoperable until it is activated by an adult employee upon verification that the prospective buyer is of legal age.

SECTION IV: ENFORCEMENT

1. Representatives of the Health Department (alternatively City Manager or Police Department) are authorized to escort minors under the age of 18 to stores in order to attempt to purchase cigarettes or other tobacco products to test merchant compliance with the provisions of this law. Under supervision from the outside, such minors may enter the store and attempt to purchase cigarettes or other tobacco products. If they are successful, they will immediately surrender purchased tobacco products to the Health Department (Police) officer. The Health Department (Police) officer will then issue a citation to the store manager. If a minor under the supervision of an authorized official purchases tobacco in violation of this ordinance resulting in a citation to the merchant, this shall not be considered to be entrapment.

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2. Any citizen who witnesses a minor under the age of 18 purchase cigarettes or other tobacco products, or has reason to believe that a store is selling cigarettes or other tobacco products to minors, may file a complaint with the Health (Police) Department. The Health Department Executive (Chief of Police) will assign a police officer to supervise a minor to test that store's compliance with the provisions of this law, or to notify the store manager of the complaint and inform the manager that subsequent complaints will result in unannounced tests to determine compliance.

3. An adult may escort a minor to retail outlets in order to monitor compliance with this law. Said adult must first obtain approval from the Health (Police) Department using they prescribed form. Any cigarettes purchased in such compliance tests must be turned over to the Health Department, along with a report documenting the results for each retail outlet tested. Results may not be used as the basis for fines or other punishments, but the Health Department executive (Chief of Police) will conduct an independent investigation in accord with Section IV.1 of this ordinance.

5. Merchants or stores that are fined or have their licenses suspended or revoked may appeal to (the appropriate executive or judicial body).

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SECTION V: PURCHASE OR POSSESSION BY MINORS PROHIBITED

1. It shall be a violation of this law for any minor under the age of 18 to purchase cigarettes or other tobacco products, except with direct approval by and under the supervision of a Health Department (Police) officer or other authorized adult as part of an effort to test compliance with the provisions of this law.
2. It shall be illegal for any minor to have in his or her possession any cigarettes or other tobacco product.
3. Minors found attempting to purchase or in possession of cigarettes or other tobacco products may be required to perform between ten and forty hours of community service, and/or participate in an approved smoking cessation or other health education program.
4. No school shall allow any student to possess cigarettes or other tobacco products while on school campus or at any school function, nor shall any school make provisions for students to smoke while on the school campus or at any other school function.

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DEFINITIONS:

1. Minor shall be defined as anyone under the age of 18.
2. Vending machine is any device that dispenses cigarettes or other tobacco products.

FOR ADDITIONAL INFORMATION, CONTACT:

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